

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.426 OF 2007

IN

SUIT NO.1342 OF 1993

Devidas Kanjibhai Sidhpura ...Plaintiff

Vs.

M/s.Jain & Jain ...Defendant

And

Dr.Jyoti Deepak Desai ...Applicant

Ms Alpana Ghone i/by Kanga & Co for the Applicant.

Ms.Sonal Shinde i/by Consulta Juris for the Defendant.

CORAM : ABHAY S.OKA, J.

DATED : AUGUST 13, 2007.

P.C.:

1. Heard the learned counsel appearing for the Applicant in support of Chamber Summons. I have heard learned counsel appearing for the Defendant. The Chamber Summons is for setting aside abatement of the suit as a result of demise of the sole Plaintiff on 18th December, 1998.

2. The Applicant has stated in affidavit in support of the Chamber Summons that she was not aware of the pendency of the suit filed by her father and only two months back when the suit was listed on board, she was informed by M/s.Kanga & Co who were representing her

deceased father in the said suit that such a suit filed by her father was pending. It is stated that the Applicant could not immediately take action as she had proceeded to USA and Australia and returned to Mumbai in November 2006.

3. In view of what is stated in the affidavit in support, sufficient cause is made out for condonation of delay and for setting aside abatement. Hence, Chamber Summons is made absolute in terms of prayers (a) to (d). Amendment to be carried out within four weeks. Place the suit on 07th September, 2007 under the caption of "settlement". Chamber Summons is disposed of.

JUDGE